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U.S. SENATE REPUBLICAN POLICY COMMITTEE

Legislative Notice

No. 4 February 3, 2009

S. 336 - American Recovery and Reinvestment Act of 2009

Calendar No. 19

S. 336 was read twice and placed on the Calendar on January 27, 2009. S-Rept. 111-3.

Noteworthy

- On Monday, February 2, the Senate began consideration of H.R. 1, the House-passed American Recovery and Investment Act. The Senate version as reported by the Appropriations and Finance Committees, S. 336, was introduced as a substitute amendment. This legislative notice concerns S. 336.
- This bill has a net impact on the deficit of $1.273 trillion, including:
  - $253 billion in tax provisions;
  - $286 billion in mandatory spending;
  - $346 billion in discretionary spending; and
  - $389 billion in debt service (Budget Committee estimate).
- Of the $253 billion in tax provisions, $87.2 billion is an increase in outlays.
- 12% of the appropriated spending occurs in 2009.
- 48% of the appropriated spending occurs in 2009 or 2010.
- Section 1604 of Division A contains “Buy America” provisions, which require that none of the funds provided in the bill may be used for the purchase of steel, iron, or manufactured items to be used in public infrastructure construction-related projects unless all the iron, steel, or manufactured goods were produced in the United States.
- Section 1901 of Division B applies Davis-Bacon prevailing wage requirements, which are known to raise construction costs 9.9%, to projects financed with the proceeds of clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, and recovery zone economic development bonds.
- Davis-Bacon also applies to sections of Division A, including supplemental discretionary grants for a national surface transportation system, supplemental discretionary grants for airport investment, supplemental grants to states for intercity passenger rail service, and assisted housing stability and energy and green retrofit investments.
- The bill contains over $48 billion in funds for federal buildings, vehicles, equipment, and other federal government spending.

Bill Provisions

Division A – Appropriations Provisions

Title I – Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Department of Agriculture

Office of the Secretary: $300 million for replacement and upgrades of laboratories and facilitates to improve efficiency and safety.

Office of the Inspector General: $5 million for oversight.

Cooperative State Research, Education and Extension Service: $100 million for competitive grants for agriculture and food research.

Farm Service Agency

- *Salaries and Expenses*: $171 million for salaries and expenses.

Agricultural Credit Insurance Fund Program Account

- *Farm Ownership and Operating Loans*: $42.43 million in budget authority to support $650 million in direct and guaranteed farm ownership and operating loans.
  - $17.2 million subsidy for direct Farm Ownership Loans.
  - $330,000 subsidy for Guaranteed Farm Ownership Loans.
  - $23.6 million subsidy for Direct Farm Operating Loans.
  - $1.3 million subsidy for Guaranteed Farm Operating Loans.

Natural Resources Conservation Service

- $275 million for Watershed and flood Prevention Operations.
- $120 million for Watershed Rehabilitation Program.

Rural Development

- *Salaries and Expenses*: $110 million.

Rural Housing Insurance Service

- *Rural Housing Insurance Program Account:* $200 million to support $11.472 billion in direct and guaranteed single family housing loans to promote homeownership or prevent foreclosure.

- *Rural Community Facilities Program*: $127 million to support $1.546 billion in loans and grants for hospitals, health clinics, health and safety vehicles and equipment, public buildings, and child and elder care facilities.

Rural Business Cooperative Service

- *Rural Business program account:* $150 million to support $3.01 billion in loan guarantees and grants under the Farm Security and Rural Investment Act of 2002 (FSRIA).
- *Biorefinery*: $200 million for loan guarantees and grants for biorefineries.
- *Rural Energy for America:* $50 million under FSRIA for loan guarantees and grants for state, local, and tribal governments and schools for energy efficiency.

Rural Utilities Service

- *Rural waste and waste disposal program:* $1.375 billion in budget authority for $2.82 billion in loans and $963 million in grants for rural water and waste disposal.
- *Distance Learning, Telemedicine, and Broadband Programs*: $200 million to support $813 million in direct loans and $180 million in grants for distance learning and telemedicine.

Food and Nutrition Service

- *Child Nutrition Programs:* $198 million for equipment assistance under the National School Lunch Program.
- *Special Supplemental Nutrition Program for Women, Infants, and Children (WIC):* $380 million for a contingency fund and $120 million for the WIC Management Information Systems Fund.
- *Commodity Assistance Program:* $150 million for Emergency Food Assistance.

General provisions

- *Sec. 101.* Expands the scope of the Department of Agriculture's broadband loan and grant program to allow funds to be used in any part of U.S. as long as 75% of funds are allocated to rural areas without sufficient broadband services for economic development. Priority is given to projects that can commence promptly and provide service to the greatest portion of rural residents without sufficient access to broadband.
- *Sec. 102.* Provides 12 percent increase in benefits for households participating in the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp program) and block grants for Puerto Rico and American Samoa. Provides $8.231 billion in appropriations and $8.331 billion in an advance emergency appropriation.
- *Sec. 103.* Disaster Assistance Transition.
    - (a) and (b). Amends the Federal Crop Insurance Act and the Trade Act of 1974 to allow certain otherwise eligible producers who failed to pay a fee an additional 90 days to pay the fee in order to participate in disaster assistance.

- (c). Provides $200 million in principal for direct emergency loans and $28.44 million in costs of the loans and cost modifying the loans.
- (d). Establishes a grant program from funds of the Commodity Credit Corporation for Aquaculture assistance.

- *Sec. 104.* Prohibits funds made available under the stimulus or any other Act to be used to pay the salaries or expenses of any personnel of the Food Safety and Inspection Service to pass through inspection any non-ambulatory disabled cattle for use as human food.
- *Sec. 105.* Allows state and local governments to participate in the Conservation Reserve Program.
- *Sec. 106.* Allows Commodity Credit Corporation funds to be used for administrative expenses.

<u>Title II – Commerce, Justice, Science and Related Agencies</u>

Department of Commerce

<u>Bureau of Industry and Security</u>

- *Operations and Administration:* $20 million for additional information technology.

<u>Economic Development Administration</u>

- *Economic Development Assistance Programs:* $150 million for the Economic Development Administration to stimulate employment, especially in economically depressed areas.

<u>Bureau of the Census</u>

- *Period Censuses and Programs:* $1 billion for the Census Bureau for the 2010 Census including $120 million to hire personnel experienced in "partnerships," $780 million in hiring enumerators, and $100 million for minority outreach.

<u>National Telecommunications and Inforamtion Administration</u>

- *Broadband technology opportunities program:* $9 billion for the National Telecommunications and Information Administration (NTIA) to operate a new grant program, authorized by section 201, to increase U.S. broadband penetration in unserved, underserved, and other advanced broadband capabilities. NTIA would be required to allocate the funding as follows:
  - up to $8.19 billion for competitive grants to unserved, underserved, and strategic institutions;
  - not less than $250 million for "innovative programs" to encourage sustained broadband adoption;
  - not less than $200 million for competitive grants to expand public computer center capacity;
  - up to $350 million for existing broadband mapping initiative; and

    - $10 million for the Department of Commerce's Inspector General.
    - Requires that 50% of the overall program be spent in rural communities.
- *Digital to Analog converter box program:* $650 million for NTIA's digital television converter box program, including $90 million for outreach and education.

National Institute of Standards and Technology

- *Scientific and technical research and services:* $575 million for National Institute of Standards and Technology, of which $218 million would go to competitive grants for research and measurements.
- *Construction of research facilities:* $357 million for renovating and maintaining facilities.

National Oceanic and Atmospheric Administration

- *Operations, research and facilities:* $427 million for existing mission functions.
- *Procurement, acquisition, and construction:* $795 million for construction and repair of facilities.

Departmental Management

- *Departmental Management:* $34 million to renovate and modernize the Department of Commerce.
- *Office of Inspector General:* $6 million for Department of Commerce's Inspector General.

Department of Justice

General Administration

- *Tactical law enforcement wireless communications:* $200 million for a nationwide wireless network for federal law enforcement.
- *Detention Trustee:* $150 million for the detention trustee account.
- *Office of Inspector General:* $2 million for the Inspector General.

United States Marshals Service

- $175 million for salaries and construction accounts of the U.S. Marshals Service.
- $50 million for the implementation and enforcement of the Adam Walsh Child Protection Safety Act.

Federal Bureau of Investigation ($475 million)

- $475 million for salaries and construction accounts of the Federal Bureau of Investigation.
- $75 million for investigating mortgage fraud.

Federal Prison System ($1 billion)

- $1 billion for buildings and facilities at the Federal Bureau of Prisons.

State and Local Law Enforcement Activites ($3.95 billion)

- $10 million for salaries and expenses.
- *Office of Violence Against Women:* $300 million.
- *Office of Justic Programs:* $2.64 billion for the State and Local Law Enforcement Assistance Program, including $1.5 billion for the Byrne-Justice Assistance Grants and $440 million for Byrne Competitive Grants.
- *Community Oriented Policing Services:* $1 billion for the Community Oriented Policing Services (COPS).

Science

National Aeronautics and Space Administration ($1.502 billion)

- $500 million for the science account, $250 million for aeronautics, $500 million for exploration, $250 million for cross agency purposes, and $2 million for the Inspector General.

National Science Foundation ($1.402 million)

- $1.2 billion for research activities, $150 million for facilities, $500 million for education programs, and $2 million for the Inspector General.

General Provisions

- *Section 201.* Creates the parameters for and authorizes the broadband technology opportunities program.
- *Section 202.* Allows the National Telecommunications and Information Administration (NTIA) to reissue expired DTV converter box coupons, requires the cancelation of reported lost coupons, and allows coupons to be reissued. Authorizes and establishes the parameters for the broadband technology opportunities program to be overseen by NTIA. In particular, the bill requires NTIA to make awards by September 30, 2010, and grantees to substantially complete the projects within two years after being awarded funds. NTIA is given broad authority to require information from applicants and grantees, who must demonstrate ability to complete projects and provide the necessary 20% match obligation, unless waived by NTIA. Funds may be used to purchase and deploy a wide range of broadband-related technologies and must be used in accordance with NTIA's rules to be issued on nondiscrimination and interconnection. The Federal Communications Commission (FCC) is required to develop a national broadband plan, notify the progress for meeting the plan, and provide recommendations on how to achieve the plan's goals. Lastly, NTIA is required to maintain a map of broadband availability in each state.

Title III – Department of Defense

Department of Defense

Operation & Maintenance (O&M) ($3 billion)

- $1.2 billion for the Army,
- $572 million for the Navy,
- $927 million for the Air Force,
- $112 million for the Marine Corps,
- $80 million for the Army Reserve,
- $45 million for the Navy Reserve,
- $11 million for the Air Force Reserve,
- $32 million for the Marine Corps Reserve,
- $216 million for the Army National Guard, and
- $21 million for the Air National Guard.

Procurement

- *Defense Production Act Purchases:* $100 million for purchases of alternative vehicle technologies including batteries, robotics, fuel cells, and next generation vehicles.

Research, Development, Test, and Evaluation

- *Manufacturing Technology Program:* $200 million for rapid technology transitions including fuel cells and solar cells on military installations.

Other Department of Defense Programs

- *Defense Health Program:* $250 million for Defense Health Programs, of which $130 million shall be for the Army and $120 million for the Air Force.
- *Office of the Inspector General:* $12 million to the Department of Defense Inspector General to provide additional oversight of contractor programs.

Title IV – Energy and Water Development

Department of Defense – Civil

Department of the Army Corps of Engineers – Civil ($4.6 billion)

- *Investigations:* $25 million to investigate appropriations.

- *Construction:* $2 billion for various construction and major rehabilitation of rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration and related projects authorized by law, specifically:
    - At least $200 million for water-related environmental infrastructure assistance;

- $500 million for major rehabilitation of inland waterway locks and dams;
- $200 million for dam safety/scour repair/seepage stability correction measures;
- $200 million for other deep draft and coastal navigation projects;
- $400 million for flood control and storm damage reduction projects;
- $100 million for major rehabilitation of Corps-owned and operated hydropower facilities;
- $250 million for environmental restoration projects;
- $200 million for environmental infrastructure projects; and
- $150 million for projects under the Continuing Authorities Program.
- The Secretary has unlimited reprogramming authority.

- *Mississippi River and tributaries:* $500 million for flood damage reduction projects and related efforts on the Mississippi River and Tributaries.
- *Operations and Maintenance:* $1.9 billion for operation and maintenance at water resource projects, specifically:
  - $1 billion for dredging federal harbors and waterways to authorized widths and depths;
  - $600 million for major maintenance of flood control, navigation, and public use facilities;
  - $100 million for major maintenance of Corps-owned and operated hydropower facilities;
  - $110 million for environmental and cultural stewardship activities at Corps-owned facilities; and
  - $90 million for levee inventory and inspection programs.
  - The Secretary has unlimited reprogramming authority

- *FUSRAP:* $100 million for activities related to Formerly Utilized Sites Remedial Action Program, namely to accelerate clean-up activities at atomic energy facilities.
- *Regulatory programs:* $25 million for regulation of navigable waters and wetlands
- *Flood Control and coastal emergencies:* $50 million for Flood Control and Coastal Emergencies (pre-placement of materials and equipment, advance measures).

Department of Interior

Bureau of Reclamation ($1.4 billion)

- $1.4 billion to the Bureau of Reclamation for management, development, and restoration of water/natural resources including through grants to states and Indian tribes, including:
  - Necessary amounts for the Colorado River Dam Fund;
  - $50 million may be used for the Central Utah Project Completion Act;
  - $50 million may be used for the California Bay-Delta Restoration Act;
  - Not less than $60 million for rural water projects (primarily water intake and treatment facilities);
  - Not less than $10 million for bureau-wide inspection of canals program in urbanized areas; and
  - Not less than $110 million for water reclamation and reuse projects.
  - The Secretary has unlimited reprogramming authority.

Department of Energy

Energy Programs

- *Energy Efficiency and Renewable Energy:* $14.398 billion for Energy Efficiency and Renewable Energy, including:
    - $4.2 billion for Energy Efficiency and Conservation Block Grants;
        - 50% under current formula; and
        - 50% competitive basis to applicants from states that will implement certain integrated resource planning and rate design modification standards.
    - $2 billion for advanced battery manufacturing grants;
    - $2.648 billion for energy efficiency and renewable energy research;
    - $50 million for efficiency standards and computational and communications technology;
    - $350 million for grants to acquire alternative or fuel-cell vehicles;
    - $200 million for grants to the states to plan, develop, and demonstrate electrical infrastructure projects that encourage plug-in vehicles;
    - $1.6 billion for grants to schools and hospitals to improve energy efficiency; and
    - $2.9 billion for broader weatherization assistance with increased assistance per dwelling unit and a higher ceiling for worker training.
- *Electric Delivery and energy reliability:* $4.5 billion for Electricity Delivery and Energy Reliability, including:
    - $100 million for worker training activities;
    - $80 million for a resource assessment and analysis of future demand and transmission requirements;
    - $10 million for the smart grid interoperability framework;
    - $200 million to support energy storage technology; and
    - $100 million to improve cyber security capabilities.
- *Fossil energy research and development:* $4.6 billion for Fossil Energy Research and Development, including:
    - $2 billion for "one or more near zero emissions power plants";
    - $1 billion for selections under Clean Power Initiative Round III (specifically including petroleum coke);
    - $1.52 billion for carbon capture; and
    - $50 million for geologic sequestration formulation (through competitive solicitations).
- *Non-defense environmental cleanup:* $483 million for non-Defense Environmental Cleanup.
- *Uranium Enrichment Decontamination and Decommissioning Fund:* $390 million, including $70 million for remedial action.
- *Science:* $430 million for the Office of Science, including:
    - $330 million for laboratory infrastructure; and
    - $100 million for advanced computer research and development.
- *Innovative technology loan guarantee program:* $10 billion for the Innovative Technology Loan Guarantee Program, including:

  - $9.5 billion for standard renewable projects such as wind or solar and electricity transmission projects; and
  - $500 million to increase (by $50 billion) the loan guarantees for technologies that will contribute to transforming the energy sector, including, among others, advanced nuclear power.
- *Office of the Inspector General:* $5 million for IG funding.

Atomic Energy Defense Activities

- *National Nuclear Security Administration:* $1 billion for the weapons activities of the DOE's National Nuclear Security Administration (maintenance and research).

Environmental and other Defense Activities

- $5.527 billion for Defense Environmental Cleanup.
- *Construction, rehabilitation, operation and maintenance:* $10 million for the Western Area Power Administration.

General Provisions

- *Sec. 401.* Bonneville Power Administration Borrowing Authority is increased by $3.25 billion.
- *Sec. 402.* Western Area Power Administration Borrowing Authority set at $3.25 billion
- *Sec. 403.* Amends EISA to provide financial support to smart grid demonstration projects. Increases federal cost-share from 20% to 50%, has eliminates the five project limit, and replaces $100 million in appropriations with "such sums as may be necessary." Also establishes a clearinghouse for smart grid information.
- *Sec. 404.* Amends Energy Policy Act of 2005 to establish a Temporary Stimulus Loan Guarantee Program to rapidly deploy renewable energy and electric power transmission projects. Authorizes appropriations sufficient for $10 billion (FY09-FY12) to provide the cost of guarantees. Sunsets on September 30, 2012.
  - *Sec. 405.* Amends the Weatherization Program by increasing the income level eligibility for participants (by 25%). Also doubles the funding assistance level per dwelling unit (to $5,000) and doubles the funding ceiling for worker training.
  - *Sec. 406.* Technical amendments to the Public Utility Regulatory Policies Act of 1978.
- The Committee recommends $1 billion for the weapons activities of the Department of Energy National Nuclear Security Administration.

Title V – Financial Services and General Government

Department of the Treasury

- $250 million for the Community Development Financial Institutions Program.

District of Columbia

- $125 million to the District of Columbia for the Combined Sewer Overflow Long-Term Control Plan (with 100% match by the District), a 25-year modernization program of the D.C. sewer system.

General Services Administration

Federal Building Fund ($9.048 billion)

- Provides $9.048 billion for federal buildings through the GSA Real Property Activities Federal Building Fund, including:
    - $1.4 billion for construction and repair of federal facilities;
    - 1.2 billion for construction and repair of border stations;
    - $6 billion for converting GSA facilities to High-Performance Green Buildings, including $4 million for an Office of Federal High-Performance Green Buildings;
    - $448 million to develop and construct the Department of Homeland Security Headquarters (in addition to Title II money).

Energy Efficient Federal Motor Vehicle Fleet

- $600 million for energy efficient motor vehicles for the Federal Motor Fleet and $2 million for the GSA Inspector General.

Recovery Act Accountability and Transparency Board

- $7 million for the new Recovery Accountability and Transparency Board.

Small Business Administration

- Provides the Small Business Administration with $109 million, including:
    - $84 million for salaries and expenses;
    - $10 million for SBA Inspector General; and
    - $15 million for the Surety Bond Guarantee Revolving Fund.

Business Loan Program Account

- $730 million, including $630 million to allow lenders to make zero-fee or reduced fee loans to 7(a) and 504 program participants. $109 million for SBA for administration, including $84 million for salaries and expenses and $10 million for the SBA Inspector General.

Section 502. Raises the loan limits and thresholds for numerous programs at the Small Business Administration.

Section 503. Allows the refinance 50% of existing indebtedness of a SBA section 504-financed program under certain conditions.

Title VI – Department of Homeland Security

Department of Homeland Security

Departmental Management and Operations

- *Office of Undersecretary for Management:* $248 million for the consolidation of the Department of Homeland Security Headquarters and $5 million for the Office of Inspector General.

U.S. Customs and Border Protection

- $198 million for non-intrusive inspection equipment and procurement and deployment of tactical communications equipment and radios.
- $200 million for development and deployment of border security technology on the Southwest border.
- $800 million to U.S. Customs and Border Protection for construction projects at CBP-owned land border points of entry.

U.S. Immigration and Customs Enforcement

- $27.8 million for the procurement and deployment of tactical communications equipment and radios.

Transportation Security Administration

- $1.2 billion for the procurement and installation of baggage explosives detection systems and checkpoint explosive detection equipment at airports.

Coast Guard

- *Acquisition, Construction, and improvements:* $572.5 million, including:
  - $255 million for shortfalls in priority procurements due to cost increases;
  - $195 million for construction of high priority shore facilities;
  - $87.5 million for design of a new polar icebreaker or the renovation, major repair, and maintenance of existing icebreakers; and
  - $35 million for emergency maintenance of high endurance cutters;

- *Alteration of bridges:* $240 million for alteration of bridges deemed to be a marine hazard.

Federal Emergency Management Agency

- $6 million for procurement of rapidly deployable communications vehicles.
- $950 million for grants to state and local governments directed at infrastructure asset projects, including:
  - $500 million for construction projects related to mitigating potential damage from terrorist attacks to critical infrastructure;
  - $100 million for public transportation, railroad, and Amtrak security assistance;
  - $100 million for port security grants; and
  - $250 million for construction or renovation of state and local fusion centers and emergency operations centers.
- $500 million for grants to state and local governments for construction of fire stations.
- $100 million for emergency food and shelter programs for the homeless offered through local nonprofit and faith-based organizations.
- Includes a provision lifting the cap on loans for communities declared disaster areas in 2008 from $5 million to 50% of their pre-storm revenue.

Federal Law Enforcement Training Center

- $15 million for construction and improvement projects at Federal Law Enforcement Training Center facilities.

Science and Technology

- $14 million for cyber-security research related to critical infrastructure vulnerabilities.

General Provision

- Section 601 creates a FEMA arbitration panel to expedite recovery to areas affected by Hurricanes Katrina, Rita, Gustav, and Ike.

Title VII— INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

Department of Interior

Bureau of Land Management

- *Management of Lands and Resources:* $135 million for management of lands and resources, including:
  - $80 million for deferred maintenance in a five year plan;
  - $25 million for recreation maintenance, off-road vehicle routes;
  - $20 million for trail maintenance and restoration;
  - $30 million remediation of hazards at abandoned mines and wells; and

- $25 million for habitat restoration projects.

- *Construction:* $180 million for construction, including:
  - $160 million for road and bridge construction and repair, and
  - $20 million for the Net Zero initiative to retrofit Bureau visitor centers.
- *Wildland fire management:* $15 million for reducing hazardous fuels.

Fish and Wildlife Service

- *Resource management:* $190 million for resource management:
  - $125 million for deferred maintenance projects;
  - $20 million for removal of small to medium sized fish passage barriers;
  - $20 million for trail improvement projects; and
  - $25 million for habitat restoration projects.
- *Construction:* $110 million for construction:
  - $60 million for roads and bridges;
  - $30 million for Green Energy projects; and
  - $20 million for the Net Zero initiative to retrofit visitors' center.

National Park Service

- *Operation of the National Park Service:* $158 million for operations, including:
  - $135 million for deferred facility maintenance; and
  - $23 million for deferred trail maintenance.
- *Historic Preservation Fund:* $55 million for the historic preservation fund.
- *Construction:* $589 million for construction, including:
  - $180 million for roads;
  - $310 million for facilities;
  - $9 million for equipment replacement;
  - $50 million for cleanup of abandoned mines; and
  - $40 million for the Net Zero initiative to retrofit visitors centers.
  - *Note: The Committee Report acknowledges NPS is currently holding $200 million in unspent visitor fees and urges the Service to spend them.*

United States Geological Survey

- *Surveys, Investigations, and Research:* $135 million for surveys, investigations, and research, including:
  - $30 million in deferred maintenance for buildings and grounds;
  - $20 million in deferred maintenance for cableways, groundwater wells, and surface water stations; and
  - $85 million for other infrastructure upgrades and research equipment.

Bureau of Indian Affairs

- $40 million for operations, including:
  - $18 million for workforce construction training;

  - $2 million for a program focused on training certified plumbers and pipefitters; and
  - $20 million for the housing improvement program.
- $522 million for construction, including:
  - $115 million in repair and facilities improvement;
  - $132 million for replacing schools;
  - $35 million for school improvements and employee housing repair;
  - $25 million in detention center improvements, repairs and maintenance;
  - $40 million for new construction, repair, and deferred maintenance of irrigation projects;
  - $25 million for hazardous dam improvements, repair and maintenance; and
  - $150 million for road and bridge maintenance.
- $10 million for guaranteed loans to Indian-owned businesses.

<u>Insular Affairs</u>

- $62 million for "assistance to territories," with all money directed at Guam to help with large-scale deployment of forces to Guam:
  - $20 million for ports;
  - $30 million for water; and
  - $12 million for electricity.

<u>Other Interior Divisions</u>

- $7.6 million to the Inspector General.
- $20 million for the Central Hazardous Materials Fund.
- $20 million for the Working Capital Fund to continue implementation of a department-wide financial and business management system.

Environmental Protection Agency

- *Hazardous Substance Superfund:* $800 million, including 2% for oversight and support.
- *LUST Trust fund:* $200 million for the Leaking Underground Storage Tank Trust Fund Program.
- *State and Tribal Assistance Grants:* $6.4 billion for State and Tribal Grants, including:
  - $4 billion for the Clean Water State Revolving Fund;
  - $2 billion for Safe Drinking Water State Revolving Fund;
  - 15% shall be designated for green infrastructure water efficiency improvements or other environmentally innovative projects;
  - Priority to projects ready to proceed to construction within 180 days;
  - $100 million for Brownfields remediation grants; and
  - $300 million for Diesel Emission Reduction Act grants.

Department of Agriculture

<u>Forest Service</u>

- $650 million for capital improvement and maintenance, including:
    - $280 million for roads;
    - $245 million for facilities;
    - $100 million for trails; and
    - $25 million for abandoned mine site remediation.
    - Priority for retrofitting facilities with energy efficient or other green technologies.
- $650 million for Wildland Fire Management hazardous fuel reduction and mitigation activities, including $350 million for State and private lands and $300 million for federal lands.

<u>Supplemental Nutrition Assistance Program</u>

- Provides an estimated $16.1 billion over the next five years to temporarily increase the maximum benefit under the Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps).

Department of Health and Human Services

<u>Indian Health Service</u>

- $135 million for health services including:
    - $50 million for the Contract Health Service Program;
    - $85 million for health information technology; and
    - Provides the director of the Indian Health Service the authority to "manage the health information program at the national level."
- $410 million for facilities.

<u>Smithsonian</u>

- $150 million for facilities, including $75 million for renovations and $75 million for Smithsonian-wide repairs with an emphasis on fire and safety requirements.

<u>Title VIII – Departments of Labor, Health and Human Services, and Education</u>

Department of Labor

<u>Employment and Training Administration</u>

- $3.25 billion for training and employment services under the Workforce Investment Act, including:
    - $500 million for adult employment and training activities;
    - $1.2 billion youth activities, including summer employment;
    - $1 billion for grants to states for dislocated worker employment and training;
    - $200 million for national emergency grants;
    - $250 million for the dislocated worker national reserve to train workers in high growth and emerging industries; and

    - $100 million for Youthbuild, an alternative education program that helps students obtain a high school diploma or GED credential.
- $120 million for Community Service Employment under the Older Americans Act.
- $400 million for State Unemployment Insurance and Employment Services under the Wagner-Peyser Act, with $250 million used for re-employment services for unemployment insurance claimants.
- $160 million for construction, alteration, and repairs of buildings under the Job Corps program.
- $3 million for the Office of the Inspector General.

Department of Health and Human Services

Health Resources and Services Administration

- $1 billion for construction, renovation and equipment at the Nation's Community Health Centers.
- $88 million for the replacement of the headquarters of the Health Resources Services Administration.

Centers for Disease Control and Prevention

- $412 million for acquisition of property, construction, renovation, and equipment for the buildings and facilities of the Centers for Disease Control and Prevention.

National Institutes of Health

- *National Center for Research Resources:* $300 million for the National Center for Research Resources for shared instrumentation and capital research equipment.
- *Office of the Director*: $2.7 billion for the Office of the Director, half of which will be transferred to the Institutes and Centers.
- *Buildings and Facilities*: $500 million for constructing, improving, and repairing National Institutes of Health buildings and facilities.

Agency for Healthcare Research and Quality (AHRQ)

- $1.1 billion for comparative clinical effectiveness research.
    - $300 million shall be administered by the Agency for Healthcare Research and Quality;
    - $400 million shall be transferred to the National Institutes of Health (NIH); and
    - $400 million shall be allocated at the discretion of the Secretary of Health and Human Services.

Note: The funding appropriated for comparative effectiveness in the bill shall be used to "accelerate the development and dissemination of research assessing the comparative clinical effectiveness of health care treatments and strategies, including through efforts that: (1) conduct, support, or synthesize research that compares the clinical outcomes, effectiveness, and appropriateness of items, services, and procedures that are used to prevent, diagnose, or treat diseases, disorders, and other health conditions and (2) encourage the development and use of clinical registries, clinical data networks, and other forms of electronic health data that can be used to generate or obtain outcomes data." (emphasis added). The use of "clinical" is important because the language would not appear to allow the use of cost effectiveness as a criterion in the research.

Some concerns may be raised by the $400 million "slush fund" appropriated to the Secretary of HHS to be used at his discretion. The bill does provide that the Secretary, along with the Directors of AHRQ and the NIH, shall provide the Senate and House Committee on Appropriations an operating plan by June 30, 2009, including recommendations on how the funds appropriated should be used.

Administration for Children and Families

- Provides $2 billion for the Child Care and Development Block Grant (CCDBG), with more than $255 million reserved for activities to improve child care.
- Provides $400 million for the Social Services Block Grant.
- Provides $1 billion for Head Start.
- Provides $1.1 billion for Early Head Start.
- Provides $200 million for the Community Services Block Grant.

Administration on Aging

- $100 million for Aging Services Programs, with $67 million used for Congregate Nutrition Services and $33 million for Home Delivered Nutrition.

Office of the Secretary

- *Office of the National Coordinator for Health Information Technology:* $5 billion for health information technology [IT] activities. The Committee Report says this money can be used to facilitate the electronic exchange of health information among organizations and to states and Indian tribes to establish low interest loan programs to facilitate the purchase of certified health IT. The necessity for these loans may be questioned considering that $23 billion is given to providers to purchase health information technology.
- *Office of the Inspector General*: $4 million for the Office of the Inspector General to ensure appropriate oversight of funds available to and activities supported by the Department of Health and Human Services
- *Public Health and Social Services Emergency Fund*: $5.8 billion to fund projects and activities to reduce the incidence or severity of preventable disabilities, diseases, and conditions and to invest in health workforce training. Note that the Secretary of HHS has discretion to transfer funds to other accounts within HHS to accomplish the prescribed activities.
    - $400 million to be transferred to the CDC for the Health Communities Program;

- $400 million to be transferred to the CDC for testing and prevention of HIV and STD infections (*note: this is expected to be dropped in the substitute amendment)*;
- $750 million to be transferred to the CDC to provide additional vaccinations;
- $15 million for grants to state health departments to purchase needed equipment to expand newborn screening;
- $60 million for research, data collection, and of prevention activities;
- $1 billion to be transferred to the CDC to expand disease screening and education;
- $75 million for smoking cessation activities (*note: this is expected to be dropped in the substitute amendment)*;
- $40 million to convert vital statistics data collection from a paper system to an electronic system;
- $600 million to be transferred to the Health Resources and Services Administration (HRSA) to address health professions workforce shortages; and
- $870 million for pandemic influenza activities.

Department of Education

- *Education for the Disadvantaged:* $13 billion for education for the disadvantaged.
- *Grants to Local Educational Activities*: $11 billion for Title I, Part A to supplement the educational needs of poor children, with $2 billion used for school improvement grants to states to help underperforming schools. 15% of funds must also be used for pre-K activities.
- *School Improvement Programs:* $17.7 billion for school improvement programs.
- *Education Technology State Grants*: $1 billion for education technology.
- *Education for Homeless Children and Youth*: $70 million for the education of homeless students under the McKinney-Vento Homeless Assistance Act.
- *School Modernization:* $16 billion for a new K-12 "green" school construction program to renovate, repair, and construct schools. Includes a 2% set aside for construction related to Impact Aid construction.
- *Special Education:* $13.5 billion for the Individuals with Disabilities Education Act.
- *Rehabilitation and Disabilities Research:* $610 million for Vocational Rehabilitation Services, which support services designed to help individuals with disabilities prepare for and engage in gainful employment.
- *Student Financial Assistance:* $13.9 billion to increase the maximum Pell Grant by $281 in 2009-2010 and $400 in 2010-2011, including $61 million for Perkins Loans under the Higher Education Act.
- *Higher Education:* $100 million for Teacher Quality Partnership Grants to improve prospective teacher training and recruitment under the Higher Education Act.
- *Higher Education Facilities*: $3.5 billion for modernization, renovation, and repair of institutions of higher education, and allows funds to be used for leasing, purchasing, or upgrading equipment.
- *Office of the Inspector General:* $4 million for the Office of the Inspector General.

Corporation for National and Community Service

- *Operating Expenses:* $160 million for operating expenses for the Domestic Volunteer Service Act and the National and Community Service Act.
- *National Service Trust:* $40 million for the National Services Trust under the National and Community Services Act.

Social Security Administration

- *Limitation on Administrative Expenses Account:* $890 million for the Limitation on Administrative Expenses Account, including $750 million for the National Computer Center and the information technology costs associated with such Center.
- *Office of Inspector General:* $3 million for the SSA OIG.

Section 801 includes a report on the impact of the minimum wage in American Samoa and the Northern Marinara Islands.

Section 802 creates the Federal Coordinating Council for Comparative Clinical Effectiveness Research. The Council would advise the President and Congress on: 1) strategies with respect to the infrastructure needs of comparative clinical effectiveness research within the federal government; 2) appropriate organizational expenditures for comparative clinical effectiveness research by relevant federal departments and agencies; and 3) opportunities to assure optimum coordination of comparative clinical effectiveness and related health services research conducted or supported by relevant federal departments and agencies, with the goal of reducing duplicative efforts and encouraging coordinated and complementary use of resources. The Council would be composed of not more than 15 members, all of whom would be senior federal officers or employees with responsibility for health-related programs. The Council would report annually on federal activities in this area and recommendations for further research.

Section 803 allows for grants for higher education modernization and repair.

Section 804 creates grants for school renovation, repair, and construction.

Title IX – Government Accountability Office

Salaries and Expenses

- $20 million for temporary personnel and contract services related to oversight of the economic stimulus package.

Title X – Military Construction and Veterans Affairs

Military Construction:

The bill provides just over $3 billion for military construction and housing programs. Includes in this amount is:

- $638 million for Army military construction, including:
  - $481 million for warrior transition complexes; and

- $42.4 million for health and dental clinics.
- $990 million for Navy and Marine Corps military construction, including:
  - $494 million for energy conservation and alternative energy projects; and
  - $299 million for barracks construction, repair, and improvement.
- $871 million for Air Force military construction, including:
  - $612 million for dormitory construction.
- $119 million for military construction Defense-wide.
- $150 million for Army National Guard military construction.
- $110 million for Air National Guard military construction.
- $411 million to expand the Homeowners Assistance Program, which is designed to assist qualified military and civilian homeowners who face financial loss when selling their primary residence homes in areas where real estate values have declined because of a base closure or realignment announcement.

The bill provides close to $4 billion for the Department of Veterans Affairs. Included in this amount is:
- $1.37 billion for maintenance and repairs at VA medical facilities.
- $1.1 billion for major construction projects for the Veterans Heath Administration and National Cemetery Administration.
- $940 million for minor construction projects, defined as projects costing less than $10 million.
- $258 million for the repair and construction of State long-term care veterans' homes.

<u>Family Housing and Homeowners Assistance Program</u>

- $546 million for family housing construction, of which $411 million to expand the Homeowners Assistance Program, which is designed to assist qualified military and civilian homeowners who face financial loss when selling their primary residence homes in areas where real estate values have declined because of a base closure or realignment announcement.

Department of Veterans Affairs

- $4 billion for the Department of Veterans Affairs.

<u>Veterans Health Administration</u>

- *Medical support and compliance*: $5,000,000 for Medical Support and Compliance to support contract administration associated with the additional infrastructure repairs, minor construction, and execution of energy initiatives at existing Veterans Health Administration [VHA] facilities.

- *Medical Facilities:* $1,370,459,000 for the Veterans Health Administration to address facility deficiency projects and repairs at existing facilities.

<u>National Cemetery Administration</u>

- $64,961,000 for the National Cemetery Administration for capital infrastructure repairs, memorial and monument repairs, and energy conservation projects.

Departmental Administration

- *General Operating Expenses:* $1,125,000 for General Operating Expenses for additional staff to support project execution and contract administration associated with major construction projects.
- *Information Technology Systems:* $195 million for Information Technology systems. Of the funding provided, $145 million is to be used for the Veterans Benefits Administration to develop paperless claims processing, and $50 million is to complete development of systems required to implement the new GI bill education benefit.
- *Office of the Inspector General:* $4,400,000 for the Office of Inspector General to provide independent oversight audits of the programs, projects, and grants funded under this title.
- *Construction, Major Projects:* $1,105,333,000 for major project construction for the Veterans Health Administration and National Cemetery Administration.
- *Construction, Minor Projects:* $939,836,000 for minor construction.
- *Grants for Construction of State Extended Care Facilities:* $258 million for the repair and construction of state long-term care veterans' homes.

Cemeterial Expenses, Army

- $60.3 million for site development at Arlington National Cemetery

Title XI – Department of State and Foreign Operations

Administration of Foreign Affairs

- *Diplomatic and Consular Programs:* $181 million for facilities requirements in the United States, including $75 million for the construction of a consolidated training facility in the United States.
- *Capital Investment Fund*: $524 million to the Capital Investment Fund, which is the Department's principal central funding account for information technology and communications systems enhancements, and of which:

    - $120 million is provided for design and construction of a backup information management facility in the United States;
    - $305 million is recommended for immediate upgrades to the Department's information technology platforms (not restricted by text to the United States); and
    - $99 million is available to carry out the Department's responsibilities under the Comprehensive National Cybersecurity Initiative.
        - Although executing the Department of State's responsibilities in the National Cybersecurity Initiative may provide benefits for the protection of critical infrastructure domestically, it seems anomalous that the State

Department would be spending such money domestically, which seems to be the entire point of a bill designed to stimulate the domestic economy. Under the *National Strategy to Secure Cyberspace*, “the Department of State coordinates international outreach on cybersecurity.”[1] To this end, the State Department is to, among other things, “work through international organizations” to promote cybersecurity.[2]

- *Office of Inspector General:* $2 million to the State Department’s OIG.

International Commissions

- *International Boundary and Water Commission United States and Mexico, Construction:* $224 million for to upgrade flood control levees along 506 miles of international waters.

USAID

- *Capital Investment Fund:* $100 million to the Capital Investment Fund at the Agency for International Development for information technology modernization.
  - It would seem that this money is likely to be spent overseas, as “USAID utilizes the Capital Investment Fund to modernize and improve information technology (IT) systems and finance construction of USAID buildings and office space overseas.”[3]
- *USAID Inspector General:* $500 million for the OIG

Title XII – Transportation and Housing and Urban Development, and Related Agencies

Department of Transportation

Office of the Secretary

- *Discretionary Grants for a National Surface Transportation Program:* $5.5 billion in competitive grants for projects so long as projects are based on published criteria, announcements of awards occur within 1 year of enactment and are geographically distributed. Funds withdrawn under the “use-or-lose” funding provided to highway and transit formula programs will be transferred to this account.

Federal Aviation Administration

- *Facilities and Equipment:* $200 million with priority for projects that will be completed within two years of enactment; funding would be distributed as follows: $50 million for

[1] National Strategy to Secure Cyberspace, p. 17 (emphasis added).
[2] Id. at p. 50.
[3] FY09 Congressional Budget Justification, Foreign Operations, p.27.

power systems, $50 million for air route traffic control centers, $80 million for air traffic control towers, and $20 million airport lighting.

- *Supplemental Grant for Airport Investment*: $1.1 billion for new competitive grant program for airport infrastructure construction and maintenance, runway incursion prevention devices, and firefighting and safety equipment, with priority for projects that can be completed within two years.

Federal Highway Administration

- *Grants for Highway Investment:* $27.6 billion distributed to states as by formula in current law. The bill allocates half of funds to be obligated within one year and half of the funds to be for longer term projects. The first half of the allocation is exclusively for states, subject to a "use-or-lose" requirement that the funds be obligated within one year or redistributed to other states capable of obligating all of their allocations. The second half of the allocation, and any reallocated funding from the first half, is split 80% to local communities and 20% to states, and is also subject to a one year "use-or-lose" obligation requirement. Funds not obligated by this time are to be dedicated for the new surface transportation grant program outlined above. The bill also contains the following set-asides within the program: $320 million for Indian Reservation Roads, $100 million for Park Roads and Parkways on Federal Lands, $70 million for the Forest Highway Program, $10 million for the Refuge Roads Program, and $60 million for ferry projects. All set-asides within the program are for priority projects that can be completed in 2 years of enactment.

Federal Railroad Administration

- *Supplemental Grants for Intercity Rail*: $250 million for intercity rail projects listed on a Statewide Transportation Improvement Plan and can be completed within two years.
- *Supplemental Grants for Amtrak:* $850 million for Amtrak with priority given for projects to expand rail capacity, are completed within two years of enactment, and 50% are outside the Northeast Capital Corridor.
- *High Speed Rail Corridor Program:* $2 billion for the authorized high-speed rail corridor program.

Federal Transit Administration

- *Supplemental grants for public transit investment:* $8.4 billion with funds to be distributed according to 3 different formula grants in current law. The bill allocates half of funds to be obligated within one year after enactment and half for longer term projects. It also creates two "use-or-lose" provisions, which can be modified by the Transportation Secretary. After 6 months, funds not obligated by recipients would be reclaimed from those receiving funding under the first allocation and redistributed to other applicants that have fully obligated their apportionment. After one year, unobligated funds from the second half of allocation, and any reallocated from the first half, would be withdrawn from all recipients. In addition, $200 million is provided for capital investments to reduce energy consumption and green house gases in public transportation.

Maritime Administration

- *Supplemental Grants for assistance to small shipyards*: $100 million for assistance to small shipyards, including maritime community training.

Office of the Inspector General: $7.5 million.

Section 1201. Increases the cap on the total authorization, and thus obligations, allowed for projects by the Federal Transit Authority.

Department of Housing and Urban Development

Public and Indian Housing

- *Native American Block Grant*: $510 million, of which $255 million is to be allocated via existing formula in law and $255 million is to be awarded through a competitive grant program. Funds are subject to "use-or-lose" in three tiers: 100% obligated by year one of date of enactment, 50% expended by year two of funds becoming available, and 100% expended by year three of funds becoming available. The bill authorizes the HUD Secretary to waive these deadlines and to waive any provision of law or regulation, with some exceptions, to expedite use of funds.
- *Public Housing Capital Fund*: $5 billion, with $3 billion distributed according to formula in law and $2 billion awarded by competitive process. Priority would be given to projects that are already underway and contained in five-year capital fund plans, or rehabilitate vacant rental units. Funds are subject to "use-or-lose" in three tiers: 100% obligated by year one from date of enactment, 60% expended by year two of funds becoming available, and 100% expended by year three of becoming available. The bill authorizes the HUD Secretary to waive these deadlines and to waive any provision of law or regulation, with some exceptions, to expedite use of funds.

Community Planning and Development

- *Neighborhood Stabilization Program*: $2.25 billion for states, local communities, and nonprofits to redevelop abandoned and foreclosed homes. Grantees must expend 75% of allocated funds within two years of becoming available to the grantee and 100% within three years of becoming available. The HUD Secretary would be allowed to allocate 10% of funding to facilitate capacity by organizations receiving funding, and funding could be used for early childhood development centers.
- *HOME Investment Partnership Program*: $2.25 billion distributed by existing formula. Funds are subject to "use-or-lose" in three tiers: 100% obligated by year one of enactment, 60% expended by year two of becoming available, and 100% expended by year three of becoming available. The bill authorizes the HUD Secretary to waive these deadlines and to waive any provision of law or regulation, with some exceptions, to expedite use of funds. It also allows funding to be used for energy efficiency and green buildings.

- *Homeless Prevention Fund*: $1.5 billion for homeless prevention activities pursuant to existing formula in current law. Grantees must expend 75% of allocated funds within two years of becoming available to the grantee and 100% within three years of becoming available.

Housing Programs

- *Assisted Housing Stability and Energy and Green Retrofit Investments*: $3.5 billion, of which $2.13 billion is for Section 8 rental assistance and $1.37 billion is for grants or loans to retrofit such assisted housing, subject to existing HUD policies and procedures. The bill allows the HUD Secretary to provide owner incentives to make energy or green retrofits, including covering oversight and implementation costs or employing low-income individuals, requires funding to be expended within two years of enactment, and allows the Secretary to waive any provision of law or regulations to facilitate use of the new funds.

Office of Healthy Homes and Lead Hazard Control

- *Lead hazard reduction*: $100 million to be used to fund accepted applicants for the existing program in 2008 and remaining funding to be used for 2009 applicants. Funds are subject to "use-or-lose" in three tiers: 100% obligated by year one from date of enactment, 75% expended by year two of funds becoming available, and 100% expended by year three of becoming available. The bill authorizes the HUD Secretary to waive any provision of law or regulation, with some exceptions, to expedite use of funds.

Office of Inspector General:

- $2.75 million for salaries and expenses.

Title XIII – Health Information Technology

See summary under Title IV: Health Information Technology of tax section

Title XIV – State Fiscal Stabilization Fund

$79 billion for a new State Fiscal Stabilization Fund

- Provides $79 billion for a Department of Education State Fiscal Stabilization Fund to restore state funding for elementary, secondary, and post secondary education to FY08 levels. Includes:

    - a one half of one percent reservation for "the outlying areas";
    - a $25 million reservation for the Secretary of Education for administration and oversight;

- $15 billion is reserved for State Incentive Grants awarded by the Secretary for significant gains in closing achievement gaps;
- $38,783,800,000 (61% of the total) must be used for elementary, secondary, and higher education and, as applicable, early childhood education; and
- $24,796,200,000 may be used for a range of public safety and other government services, which may include education.

Title XV – Recovery Accountability and Transparency Board and Recovery Independent Advisory Panel

Subtitle A – Recovery Accountability and Transparency Board

Section 1511 establishes the Recovery Accountability and Transparency Board to coordinate and conduct oversight in order to prevent waste, fraud, and abuse of the funds provided under the Act.
Section 1512 clarifies that the president will appoint a chairperson (he can select the Deputy Director for Management at OMB or another Senate-confirmed federal official, or he can nominate someone for Senate consideration). The board will be comprised of the Inspectors General (IG) from the Departments of Agriculture, Commerce, Education, Energy, HHS, Homeland Security, Justice, Transportation, and Treasury, and the Treasury IG for Tax Administration.
Section 1513 outlines the functions of the Board, which include: reviewing reporting on contracts and grants, reviewing whether competition requirements were met, auditing uses of funds, reviewing the adequacy of agency oversight, reviewing the adequacy of training of personnel, and reviewing mechanisms for interagency collaboration. It also indicates that the Board will provide quarterly and annual reports that will be publically available. The Board will also make recommendations to agencies on how to prevent waste, fraud and abuse.
Section 1514 outlines of powers of the Board, which include conducting, supervising, and coordinating the work of the IGs' audits and investigations. The Board may also conduct its own investigations, hold public hearings, collect depositions, subpoena witnesses, enter into contracts, and transfer funds
Section 1515 clarifies that Board employees will be treated the same as employees of temporary government organizations. The Board will be located at the General Services Administration.
Section 1516 clarifies that nothing in the subtitle shall impact the independent authority of any IG and requires an IG to submit a report to Congress if they fail to conduct a recommended audit or investigation or if they conduct an audit or investigation from which they were asked to refrain.
Section 1517 requires the Board to coordinate with the Comptroller General
Section 1518 contains a whistleblower protection that states that any non-federal employer who receives funds under this Act may not fire, demote, or otherwise discriminate against an employee who reveals information on mismanagement, waste, dangers to public health and safety, or violations of law related to the grant or contract. This section also requires an IG to investigate all claims of reprisal unless they are determined, within 180 days, to be frivolous. It also requires, not later than 30 days after receiving an IG report, the head of the agency to determine if the non-federal employer has been engaged in a prohibition reprisal and order the employer to (1) take action to address the issue, (2) reinstate the person, and (3) pay the

complainant an amount equal to all costs and expenses that were incurred in bringing the complaint. If an agency head denies relief or does not take action with 210 days the complainant can seek compensatory damages in court.
Section 1519 requires the Board to establish a public website. This website will provide (1) information on e what the Act means for citizens, (2) accountability information, (3) data on the use of funds, (4) data on the process used for awarding contracts, (5) information on funds obligated, broken down by state and congressional district, and (6) a means for public feedback on the performance of contracts awarded under the Act.
Section 1520 authorizes such sums for the Board.
Section 1521 requires the Board to terminate on September 30, 2012.
Subtitle B – Recovery Independent Advisory Panel
Section 1531 establishes the Recovery Independent Advisory Panel, composed of five presidentially-appointed members with expertise in economics, public finance, contracting, accounting, or another relevant field. The first meeting will be held not later than 30 days after all Panel members have been appointed.
Section 1532 requires the Panel to make recommendations to the Board on action that should be taken to prevent fraud, waste, and abuse of funds provided under the Act.
Section 1533 allows the Panel to hold hearings, collect information from federal agencies, use the mail in the same manner as federal agencies, and accept gifts.
Section 1534 outlines the compensation for members of the Panel (equivalent to level IV of the Executive Schedule), clarifies that their travel expenses will be covered, allows the Panel to terminate the Executive Director without regard to civil service laws, and clarifies that compensation of the Executive Director does not have to be paid according to the GS scale.
Section 1535 requires the Panel to terminate on September 30, 2012.
Section 1536 authorizes such sums for the Panel.

Subtitle C – Reports of the Council of Economic Advisers

Section 1541 requires the Chairperson of the Council of Economic Advisors (in consultation with the Director of OMB and the Treasury Secretary) to submit quarterly reports to Congress that detail the estimated impact of programs funded through covered funds on employment, economic growth, and other key economic factors.

Title XVI – General Provisions

Section 1604 of the bill requires that none of the funds provided in this bill may be used for the purchase of steel, iron, or manufactured items to be used in public infrastructure construction-related projects unless all the iron, steel, or manufactured goods were produced in the United States. This provision may be waived if the head of the federal entity involved in the project finds that:

1. applying the provision "would be inconsistent with the public interest";
2. the iron, steel, or manufactured item are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or
3. requiring the inclusion of the iron, steel, or manufactured item produced in the United States would increase the costs of the project by more than 25 percent.

If the waiver authority is employed, the head of the federal entity making use of the authority must publish a written justification in the Federal Register.

Economists have found that protectionist measures, such as the Smoot-Hawley Tariff, at least contributed to prolonging the Great Depression, by causing a collapse in international trade in the 1930s.[4] For example, Amity Shlaes in *The Forgotten Man* found that protectionist measures begat retaliatory protectionist measures, depriving the United States of markets for its goods, thereby sending the United States deeper into its economic slump. "At a time when the country could have pulled itself out of a slump through trade, Washington was buttressing the walls preventing that trade."[5] Moreover, just two months ago, the United States committed, along with the other major economic powers of the world, to "rejecting protectionism," and "refrain[ing] from raising new barriers to investment or to trade in goods and services."[6]

Division B – Tax, Unemployment, Health, State Fiscal Relief, and Other Provisions

TITLE I – TAX PROVISIONS

PART I – GENERAL TAX RELIEF

Sec. 1001. Making work pay credit. Creates a refundable tax credit of up to $500 for individuals and $1,000 for families. The credit is 6.2% of earned income, and would phase out for taxpayers with adjusted gross income in excess of $75,000 ($150,000 for married couples filing jointly). The credit can be received through a decrease in withholding or through claiming a credit on tax returns. Estimated to cost $141.8 billion over ten years.

Sec. 1002. Temporary increase in earned income tax credit. Temporarily increases the earned income tax credit for families with three or more children to 45% of the family's first $12,570 of earned income and increases the phase-out for all married couples filing a joint return by $1,880. Under current law, families with two or more children currently qualify for an earned income tax credit equal to 40% of the family's first $12,570 of earned income. This credit is subject to a phase-out for working families with adjusted gross income in excess of $16,420 ($19,540 for married couples filing jointly). Estimated to cost $4.7 billion over ten years.

Sec. 1003. Temporary increase of refundable portion of child credit. Increases the eligibility for the refundable child tax credit in 2009 and 2010 by lowering the refundability threshold from $8,500 to $6,000. Estimated to cost $10.5 billion over ten years.

Sec. 1004. American opportunity tax credit. Section 1004 modifies the Hope tax credit to allow for an "American opportunity tax credit" of up to $2,500 per eligible student per year for qualified tuition and related expenses paid for each of the first four years of the students' post-secondary education in a degree or certificate program.

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[4] Mario J. Crucini & James Khan, Tariffs and the Great Depression Revisited, p. 23, Federal Reserve Bank of New York Staff Reports, available at http://www.newyorkfed.org/research/staff_reports/sr172.pdf (Sept. 2003, Staff Report No. 172) (concluding that tariffs were a "non-negligible" contributing factor in the Great Depression).
[5] Amity Shlaes, *The Forgotten Man*, p. 99 (2007).
[6] Statement from G-20 Summit on Financial Markets and the World Economy ¶ 13 (Nov. 2008).

Sec. 1005. Computer technology and equipment allowed as a qualified higher education expense for section 529 accounts in 2009 and 2010. Section 1005 allows computers to qualify as a higher education expense for prepaid tuition or college savings accounts, also known as Section 529 qualified tuition programs in 2009 and 2010.

Sec. 1006. Extension of first-time homebuyer credit; waiver of requirement to repay. Provides an expanded tax credit for first time homebuyers. Specifically, the bill eliminates the 15-year repayment requirement contained in existing law for home purchased after January 1, 2009, and delays the provision's sunset until September 1, 2009. This credit was first enacted into law in the Housing and Economic Recovery Act of 2008.

Sec. 1007. Suspension of tax on portion of unemployment compensation. Section 1007 allows up to $2,400 of unemployment compensation benefits received in 2009 to be excluded from gross income.

PART II – ALTERNATIVE MINIMUM TAX RELIEF

Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits. Extends for one year the AMT relief for nonrefundable personal credits.

Sec. 1012. Extension of increased alternative minimum tax exemption amount. Raises the amount of income that qualifies for the Alternative Minimum Tax from $69,950 in 2008 to $70,950 in 2009 for joint returns and from $46,200 in 2008 to $46,700 in 2009 for single returns.

Subtitle B – Energy Incentives

PART I – RENEWABLE ENERGY INCENTIVES

Sec. 1101. Extension of credit for electricity produced from certain renewable resources.

- Qualifies certain renewable energy facilities for tax credits if they enter service after the date of enactment. [sec. 1101(c)]
- Extends deadline for the wind tax credit from 2010 to 2013. [sec. 1101(a)(1)]
- Extends deadline for biomass, geothermal, solar, small irrigation, landfill gas, and hydropower credits from 2011 to 2014. [sec. 1101(a)(2)]
- Extends deadline for marine and hydrokinetic credit from 2012 to 2014. [sec. 1101(a)(3)]

Sec. 1102. Election of investment credit in lieu of production credit.

- Allows a filer to elect to take an investment credit instead of a production credit for certain facilities placed into service within a certain timeframe, including:
    - wind ('09-12);
    - biomass ('09-13);
    - geothermal ('09-13);
    - solar ('09-13);
    - landfill gas ('09-13);
    - trash ('09-13);

- hydropower ('09-13); and
- marine and hydrokinetic ('09-13).

Sec. 1103. Repeal of certain limitations on credit for renewable energy property.

- Sec. 1103(a) Eliminates the $4,000 tax credit limit for qualified small wind energy properties.
- Sec. 1103(b) Eliminates, starting with the 2009 tax year, the rule that reduces the basis of facilities financed by subsidized energy financing.

PART II – INCREASED ALLOCATIONS OF NEW CLEAN RENEWABLE ENERGY BONDS AND QUALIFIED ENERGY CONSERVATION BONDS

Sec. 1111. Increased limitation on issuance of new clean renewable energy bonds. Increases the new clean renewable energy bonds by $1.6 billion (tripling from current $800 million) for wind, biomass, geothermal, solar, small irrigation, landfill gas, trash combustion, refined coal, and hydropower.

Sec. 1112. Increased limitation on issuance of qualified energy conservation bonds. Increases by four times the limitation on qualified energy conservation bonds (from $800 million to $3.2 billion).

PART III – ENERGY CONSERVATION INCENTIVES

Sec. 1121. Extension and modification of credit for nonbusiness energy property. Changes the amount of credit to 30% of the sum of the amount paid for energy improvements and energy property expenditures. Previously, this had been the sum of the energy property expenditures and 10% of the amount paid for energy improvements. Also increases the maximum credit to $1,500 per tax year from a lifetime limit of $500 with capped credits for certain property expenditures. Extends the credits to the 2009 and 2010 tax years.

Sec. 1122. Modification of credit for residential energy efficient property. Modifies the credit for residential energy efficient property; eliminates limits for solar water heating property expenditures; eliminates limits for wind turbine expenditures; and eliminates limits for geothermal heat pump expenditures.

Sec. 1123. Temporary increase in credit for alternative fuel vehicle refueling property. Temporarily increases the credit for alternative fuel vehicle refueling property for the 2009 and 2010 tax year. For non-hydrogen refueling property increases credit percentage to 50% of cost from 30%. Limit increased to $50,000 from $30,000 if the type is subject to an allowance for depreciation and increased to $2,000 from $1,000 if the type is not subject to an allowance for depreciation. For hydrogen, the limit is increased to $200,000 from $30,000.

PART IV – ENERGY RESEARCH INCENTIVES

Sec. 1131. Increased research credit for energy research. Energy research credit for 2009 and 2010; qualified energy research. Increases general research credit under 26 USC 41(a) by 20%

of the qualified energy research (not to exceed the base amount and subject to certain limitations) for fuel cells and battery technology, renewable energy and renewable fuels, energy conservation technology, efficient transmissions and distribution of electricity, and carbon capture and sequestration.

PART V – GENERAL BUSINESS CREDIT

Sec. 1141. 5-year carryback of general business credits. Extends the carryback period for general business credits from one to five years so that businesses can take advantage of unused credits from previous years. Also temporarily allows general business credits arising in 2008 and 2009 to be used to offset AMT. Estimated to cost $11 billion over ten years.

Sec. 1142. Temporary provision allowing general business credits to offset 100% of federal income tax liability. Allows general business credits described in section 1141 to offset 100% of federal income tax liability.

PART VI – MODIFICATION OF CREDIT FOR CARBON DIOXIDE SEQUESTRATION

Sec. 1151. Application of monitoring requirements to carbon dioxide used as a tertiary injectant. Adds requirement that carbon dioxide used as a tertiary injectant must be disposed of in secure geological storage.

PART VII – PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES

Sec. 1161. Modification of credit for qualified plug-in electric motor vehicles. Doubles the number of vehicles eligible for the credit to 500,000. Excludes neighborhood electric vehicles from the plug-in credit. Creates a credit for certain low-speed and 2 and 3 wheeled vehicles for 10% of the amount that doesn't exceed $40,000.

Subtitle C – Tax Incentives for Business

PART I – TEMPORARY INVESTMENT INCENTIVES

Sec. 1201. Special allowance for certain property acquired during 2009. Extends for one year the temporary benefit allowing businesses to immediately write off 50% of the cost of depreciable property acquired in 2009 for use in the United States and placed into service in 2009. Estimated to cost $5.3 billion over ten years.

Sec. 1202. Temporary increase in limitations on expensing of certain depreciable business assets. Extends for one year the temporary increase in the limit on immediate expensing for capital expenditures to $250,000 with a phase-out at $800,000. Estimated to cost $41 million over ten years.

PART II – 5-YEAR CARRYBACK OF OPERATING LOSSES

Sec. 1211. 5-year carryback of operating losses. Extends the period for which net operating losses (NOLs) may be carried back to offset tax liabilities from previous years from two years to five years. Estimated to cost $19.5 billion over ten years.

Sec. 1212. Exception for TARP recipients. Recipients of assistance under the Trouble Asset Relief Program are ineligible to qualify for extended NOL carrybacks.

PART III – INCENTIVES FOR NEW JOBS

Sec. 1221. Incentives to hire unemployed veterans and disconnected youth. Creates two new targeted groups of employees for whom the work opportunity tax credit applies: (1) unemployed veterans (defined as discharged from active duty in the Armed Forces between 2008-2010 and having received unemployment compensation for more than four weeks during the year before they were hired); and (2) disconnected youth (defined as someone between the ages of 16 and 25 who has not been regularly employed or attended school in the past 6 months). The credit is equal to forty percent (40%) of the first $6,000 of wages paid to employees of one of nine targeted groups. Estimated to cost $208 million over ten years.

PART IV – CANCELLATION OF INDEBTEDNESS

Sec. 1231. Deferral and ratable inclusion of income arising from indebtedness discharged by the repurchase of a debt instrument. Under current law, cancellation or repurchasing of debt for less than an amount of its adjusted base price qualifies as taxable income. Certain businesses will be allowed to recognize CODI over 4 years for specified types of business debt repurchased by the business after December 31, 2008 and before January 1, 2011. This proposal is estimated to cost $813 million over ten years

PART V – QUALIFIED SMALL BUSINESS STOCK

Sec. 1241. Special rules applicable to qualified small business stock for 2009 and 2010. Increases the exclusion from income for the gain from sale of certain small business stock (up to $10 million) held for more than five years from 50% to 75%.   The change applies for stock issued after the date of enactment and before January 1, 2011. Estimated to cost $829 million over ten years.

PART VI – PARITY FOR TRANSPORTATION FRINGE BENEFITS

Sec. 1251. Increased exclusion amount for commuter transit benefits and transit passes. Raises the amount that may be excluded from taxable income for employer-provided transit benefits to be at parity with the exclusion for employer-provided parking.

PART VII – S CORPORATIONS

Sec. 1261. Temporary reduction in recognition period for built-in gains tax. Reduces temporarily the S corporation built-in gains holding period from the current 10 year period to a seven-year period for taxable years 2009 and 2010. This decreases the period that a C-corporation converting to an S-corporation will have to pay taxes on untaxed gains prior to conversion.

PART VIII – BROADBAND INCENTIVES

Sec. 1271. Broadband Internet access tax credit. Creates a new 10% tax credit for companies that deploy "current generation" broadband (5 Mbps down and 3 Mbps upstream or 3 Mbps down and 768 kbps upstream for wireless technologies) in rural and underserved areas, and a 20% credit to deploy "next generation" broadband services (100 Mbps down and 20 Mbps upstream). Qualified equipment would have to be in place between December 31, 2008, and January 1, 2011.

PART IX – CLARIFICATION OF REGULATIONS RELATED TO LIMITATIONS ON CERTAIN BUILT-IN LOSSES FOLLOWING AN OWNERSHIP CHANGE

Sec. 1281. "Sec. 1281. Clarification of regulations related to limitations on certain built-in losses following an ownership change. The main provisions of Section 382 of the Internal Revenue Code were adopted in 1986. Section 382 limits the ability of acquiring corporations to offset their taxable income with the net operating losses of acquired corporations. On September 30, 2008, the Treasury Department issued Notice 2008-83, which significantly liberalized these section 382 rules in the context of an acquisition of a bank. This provision would find the legal authority for Notice 2008-83 to be doubtful. This proposal would validate the Notice for periods prior to January 16, 2009, but would repeal the Notice prospectively, as of January 16, 2009.

Subtitle D – Manufacturing Recovery Provisions

Sec. 1301. Temporary expansion of availability of industrial development bonds to facilities manufacturing intangible property. Amends the definition of "manufacturing facility" for purposes of tax-exempt bond financing to any facility used in the manufacturing, creation, or production of tangible or intangible property, including any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item. Estimated to cost $203 million over ten years.

Sec. 1302. Credit for investment in advanced energy facilities. Establishes a new 30% investment tax credit for facilities engaged in the manufacture of advanced energy property. Advanced energy property includes technology for the production of renewable energy, energy storage, energy conservation, efficient transmission and distribution of electricity, and carbon capture and sequestration. This credit is unavailable to taxpayers who receive the Advanced Energy R&D Credit. Estimated to cost $1.4 billion over 10 years.

Subtitle E – Economic Recovery Tools

Sec. 1401. Recovery zone bonds. Creates two new bond programs for designated recovery zones (areas with high poverty, unemployment, home foreclosures, or designated as an empowerment zone or renewal community). The national recovery zone development bonds would be limited at $10 billion; the national recovery zone facility would be limited to $15 billion. The bonds would be allocated to each state, and correspondingly, to each county or municipality in a state based on its 2008 decline in employment with each state being guaranteed a one percent allocation.

Sec. 1402. Tribal economic development bonds. Temporarily allows tribal governments to issue tax-exempt bonds for projects that do not satisfy the "essential governmental function" requirement of current law. Estimated to cost $315 million over 10 years.

Sec. 1403. Modifications to new markets tax credit. Increases the total amount of credits available for the 2008 and 2009 allocation from a total of $3.5 billion to $5 billion in each 2008 and 2009. Estimated to cost $1.05 billion over ten years.

Subtitle F – Infrastructure Financing Tools

PART I – IMPROVED MARKETABILITY FOR TAX-EXEMPT BONDS

Sec. 1501. De minimis safe harbor exception for tax-exempt interest expense of financial institutions. Allows banks to deduct 80% of interest costs associated with buying and holding tax-exempt securities as long as it comprises no more than 2% of its active business assets.

Sec. 1502. Modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions. For 2009 and 2010, increases the annual limit to qualify for small issuer from $10 million to $30 million.

Sec. 1503. Temporary modification of alternative minimum tax limitations on tax-exempt bonds. Income on private activity bonds is generally taxable under the Alternative Minimum Tax. Excludes all categories of private activity bonds from the AMT. This proposal is estimated to cost $481 million over ten years.

Sec. 1504. Modification to high speed intercity rail facility bonds. Lowers the standard to qualify for the exempt facility bond for high-speed rail program from reasonably expected to operate at speeds of 150 miles per hour to reasonably expected to attain such a speed.

PART II – DELAY IN APPLICATION OF WITHHOLDING TAX ON GOVERNMENT CONTRACTORS

Sec. 1511. Delay in application of withholding tax on government contractors. Delays for one year an attempt to close the "tax gap" by requiring withholding at a 3% rate on certain payments to persons providing property or services made by federal, state, and local governments that was meant to take effect after December 31, 2010. This proposal is estimated to cost $291 million over ten years.

PART III – TAX CREDIT BONDS FOR SCHOOLS

Sec. 1521. Qualified school construction bonds. Section 1521 creates a new category of tax-credit bonds called "qualified school construction bonds" to help finance school construction and renovation. A national limitation of $5 billion for each of calendar years 2009 and 2010 is included.

Sec. 1522. Extension and expansion of qualified zone academy bonds. Section 1522 authorizes the issuance of $1.4 billion of Qualified Zone Academy Bonds (QZAB) in both 2009 and 2010. QZABs are tax credit bonds that help finance school renovation (construction is prohibited), equipment, teacher training, and course materials in economically disadvantaged communities located in an empowerment zone or enterprise community.

<u>PART IV – BUILD AMERICA BONDS</u>

Sec. 1531. Build America bonds. Provides state and local governments with the option of issuing a tax credit bond instead of a tax-exempt governmental obligation bond. Allows state or local governments to temporarily elect to receive a direct payment from the federal government equal to the subsidy that would have otherwise been delivered through the federal tax credit for bonds issued in 2009 and 2010 but isn't because the market for tax credits is limited by economic conditions. *This proposal is estimated to cost $6.8 billion over ten years.*

Subtitle G – Economic Recovery Payments to Certain Individuals

Sec. 1601. Economic recovery payment to recipients of Social Security, supplemental security income, railroad retirement benefits, and veteran's disability compensation or pension benefits. Provides a one-time payment of $300 to retirees, disabled individuals and SSI recipients receiving benefits from the Social Security Administration, and Railroad Retirement beneficiaries. The proposal also provides a one-time payment of $300 to disabled veterans receiving benefits from the US Department of Veterans' Affairs. The one-time payment is a reduction to any allowable Making Work Pay credit. Estimated to cost just under $16.9 billion over ten years.

Subtitle H – Trade Adjustment Assistance

Sec. 1701. Temporary extension of Trade Adjustment Assistance program. Extends authorization for various components of Trade Adjustment Authority until December 31, 2010, excluding the Alternative Trade Adjustment Assistance, which is extended for two years from date of enactment.

Subtitle I – Prohibition on Collection of Certain Payments Made Under the Continued Dumping and Subsidy Offset Act of 2000

Sec. 1801. Prohibition on collection of certain payments made under the Continued Dumping and Subsidy Offset Act of 2000. Prohibits the Department of Homeland Security from collecting any duties owed under the now-repealed Continued Dumping and Subsidy Offset Act of 2000. Further, requires DHS to refund any payments made under that law.

Subtitle J – Other Provisions

Sec. 1901. Application of certain labor standards to projects financed with certain tax-favored bonds. Davis-Bacon (prevailing wages) applies to:

- Clean renewable energy bond [26 USC 54C];
- Qualified energy conservation bond [26 USC 54D];
- Qualified zone academy bond [26 USC 54E];
- Qualified school construction bond [26 USC 54F]; and
- Recovery zone economic development bond [Sec. 1400U-2].

Sec. 1902. Increase in public debt limit. Increases the limit on the public debt to $12.14 trillion.

TITLE II – ASSISTANCE FOR UNEMPLOYED WORKERS AND STRUGGLING FAMILIES

Subtitle A – Unemployment Insurance

Sec. 2001. Extension of emergency unemployment compensation program. Extends Emergency Unemployment Compensation from March 31, 2009 to December 31, 2009.

Sec. 2002. Increase in unemployment compensation benefits. Adds an additional $25 weekly benefit to all Unemployment Compensation, Extended Benefit, and Emergency Unemployment benefits through December 31, 2009.

Sec. 2003. Unemployment compensation modernization. Allows a transfer of Unemployment Trust Funds (UTF) of up to a total of $7 billion to the state accounts within the UTF as "incentive payments" for changing certain state unemployment compensation laws.

Sec. 2004. Temporary assistance for states with advances. Waives interest payments and the accrual of interest on advances to state unemployment.

Subtitle B – Assistance for Vulnerable Individuals

Sec. 2101. Emergency fund for TANF program. Creates a $3 billion "Emergency Contingency Fund for State Temporary Assistance to Needy Families Programs" for grants to states in 2009 and 2010 to address (1) increases in TANF caseloads, (2) non-recurrent short term expenditures, and (3) increased expenditures for subsidized employment.

Sec. 2102. Extension of TANF supplemental grants. Extends TANF supplemental grants through fiscal year 2010.

Sec. 2103. Clarification of authority of states to use TANF funds carried over from prior years to provide TANF benefits and services. Clarifies that states can use TANF funds carried over from prior years in order to provide benefits and services

Sec. 2104. Temporary reinstatement of authority to provide federal matching payments for state spending of child support incentive payments. Reinstates the authority to provide federal matching payments for state spending of child support incentive payments from October 1, 2008 through December 31, 2010.

TITLE III – HEALTH INSURANCE ASSISTANCE

Subtitle A – Premium Subsidies for COBRA Continuation Coverage for Unemployed Workers

Sec. 3001. Premium assistance for COBRA benefits. Creates a new federal subsidy to pay 65% of the cost of COBRA coverage for a period not to exceed nine months. The subsidy will take effect for the month of coverage beginning after the date of enactment of the Act. A person qualifies for the subsidy by the loss of group health plan coverage on account of "involuntary termination" of employment. No income limit or asset test applies to the subsidy. The qualifying event must occur during the period beginning September 1, 2008 and ending December 31, 2009. The subsidy terminates if the individual is offered health care under a new group health plan or becomes eligible for Medicare. The provision would also create a new 60 day election period for those who are eligible for the subsidy but who did not elect coverage prior to the new benefit being available. However, this does not extend the period of COBRA coverage beyond the time the individual could have qualified. The worker would only pay 35% of the cost of COBRA, and the former employer would be responsible for paying the rest. The employer could then treat this cost as a credit against its payroll tax liability.
CBO estimates the provision will cost $25.3 billion.
Note: The House bill would subsidize COBRA coverage for 12 months. In addition, the House bill (H.R. 598) would require employers to allow COBRA-eligible workers who are either age 55 or have 10 years of service to enroll and maintain COBRA coverage until age 65 (the age of Medicare eligibility), or until they obtain coverage through other employment. CBO estimates that the House bill would cost $30.3 billion.

Subtitle B – Transitional Medical Assistance (TMA)

Sec. 3101. Extension of transitional medical assistance (TMA). Extends work-related TMA through December 31, 2010. It also modifies some of the eligibility requirements to make it easier for people to apply. CBO estimates this will cost $1.3 billion.

Subtitle C – Extension of the Qualified Individual (QI) Program

Sec. 3201. Extension of the qualifying individual (QI) program. Provides a one-year extension of the QI program through December 31, 2010. CBO estimates this will cost $550 million.

Subtitle D – Other Provisions

Indian Health Provisions: The bill also includes in sections 3301-3305 several provisions related to Indian populations, including premium and cost-sharing protections; a revision to the asset test for determining Medicaid eligibility for Indians to exclude certain types of property; protection of certain property from Medicaid estate recovery; and a modification of the rules applicable to Medicaid managed care entities for Indian enrollees. In total, CBO estimates these provisions will cost $19 million from FYs 2009-2013.

TITLE IV – HEALTH INFORMATION TECHNOLOGY

Promotion of Health Information Technology: The bill establishes the Office of the National Coordinator of Health Information Technology (ONCHIT) in the Department of Health and Human Services (HHS). The Coordinator would be appointed by and reports to the Secretary and is responsible for developing a nationwide interoperable health information technology (HIT) system. It also establishes a HIT Policy Committee to make policy recommendations relating to the implementation of a nationwide HIT infrastructure to the National Coordinator and create a recommended policy framework for the development and adoption of a nationwide HIT system. Finally, a HIT Standards Committee would recommend to the Coordinator standards, implementation specifications, and certification criteria for the electronic exchange of health information. The Secretary would be required to adopt, through a rulemaking, an initial set of standards by December 31, 2009.
The bill provides significant financial incentives for the adoption of HIT and Electronic Health Records [EHRs]. Incentive payments would not take effect until 2011. CBO estimates the HIT provisions of the bill will cost $18.1 billion from FYs 2009-2013, and $23.8 billion for FYs 2009-2018. It should be noted that CBO says that they believe nearly-universal adoption of health IT would happen by 2030 even without legislative action.[7]

The program offers incentive[s] payments to eligible professionals and hospitals that are meaningful users of EHRs, followed by a penalty if they fail, depending on the provider and the type of services they offer. Eligible professionals would have to meet criteria to demonstrate that they are meaningful EHR users, including electronic prescribing, and demonstrate they are using certified EHR technology for the electronic exchange of health information to improve the quality of care. They would also be required to submit information on clinical quality measures "and other measures selected by the Secretary."

Physicians eligible for incentives under the Medicare Part B program are doctors of medicine, osteopathy, dental surgery and dental medicine, podiatrists, optometrists, and chiropractors. Physicians could receive up to $15,000 in bonus payments per year, with the amount decreasing over the next four calendar years. There is a bonus for early adopters so that they could receive $18,000 if they begin using EHR systems by 2011 or 2012. Physicians in rural health professional shortage areas would have their incentive payments increased by 25%. Physicians who first adopt EHR systems in 2014 could only receive a maximum of $12,000.

[7] CBO Letter to Congressman Charlie Rangel, January 21, 2009.

If an eligible physician has not become a meaningful EHR user by 2015, penalties would apply, and the amount they receive under the Medicare fee schedule would be reduced by one percent each year for three years, capped at three percent as of 2017. A significant hardship exception is available at the Secretary's discretion for up to five years.

Health care professionals not covered by the program include practitioners eligible under the physician quality reporting incentive (PQRI) and E-prescribing programs such as physician assistants, nurse practitioners, certified registered nurse anesthetists, and physical therapists. Hospital-based physicians, including pathologists, anesthesiologists, and emergency physicians, are also excluded.

The bill also would offer incentives for the adoption and meaningful use of certified EHR technology by eligible professionals employed by Medicare Advantage organizations. The bill would reduce payments to MA organizations if their eligible professionals do not adopt and use EHRs.

Incentives would also be available to qualified inpatient prospective payment system (IPPS) hospitals and to critical access hospitals. The amount would be calculated pursuant to a formula established in the bill. The EHR standards applicable to the hospital would include using certified EHR technology for the electronic exchange of health information to improve the quality of care. The hospital would also be required to submit the information on clinical quality measures "and other measures selected by the Secretary." Hospitals who did not submit the required quality data by FY 2015 would be subject to a 25 percent reduction in their annual update. Hospitals that are not meaningful EHR users would be subject to a further reduction in a percentage of their annual update, phased in over a three-year period beginning in FY 2015.

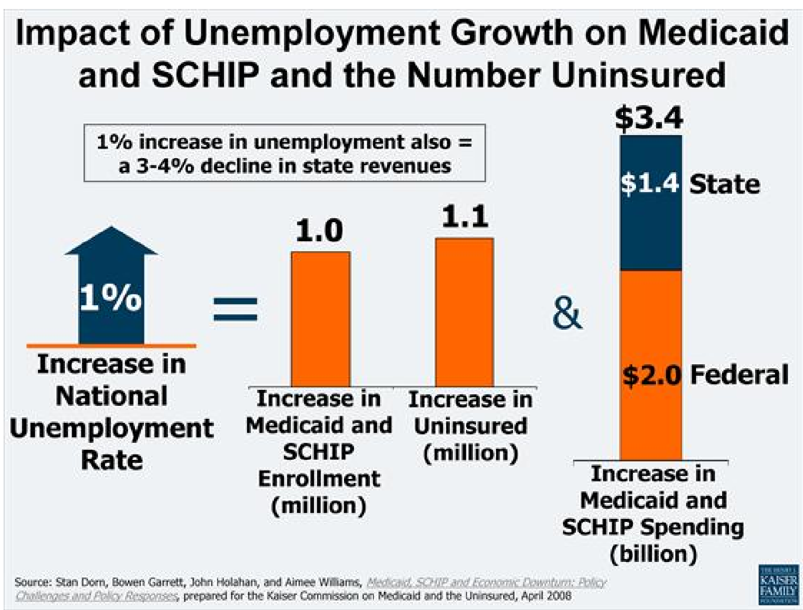
Finally, the bill provides incentives to Medicaid providers by authorizing a 100 percent Federal match for a portion of payments attributable for certified EHRs. Eligible providers would include physicians, nurse mid-wives, and nurse practitioners who are not hospital-based and that have at least 30% of their patient volume made up of Medicaid patients; acute care hospitals that have at least 10% of their patient volume attributable to Medicaid patients and children's hospitals; and rural health clinics and federally-qualified health centers that have at least 30 percent of their patient volume attributable to Medicaid patients.

TITLE V – STATE FISCAL RELIEF

Sec. 5001. Temporary increase of Medicaid FMAP. An FMAP increase through December 31, 2010, which CBO estimates will cost $90.1 billion for FYs 2009-2011.

Each state would receive an automatic 7.6% FMAP increase from the period beginning October 1, 2008, and ending December 31, 2010. A state would be held harmless from any decline in their regular FMAP (before including the automatic bonus) from FY 2008 through the first quarter of FY 2011.

In addition, states would be eligible for unemployment-related bonuses as determined on a quarterly basis. The bonus would be based on a state's quarterly unemployment rate as compared to its lowest 3-month period beginning on or after January 1, 2006. A state would receive a bonus of 2.5, 4.5, or 6.5% depending on the unemployment rate increase relative to this benchmark. However, if a state's unemployment rate decreased after receiving one of these bonus levels, the state's FMAP rate would not go down before July 1, 2010. After July 1, 2010, the Secretary of HHS has discretion to lower the bonus with a three month notice requirement. States would be required to maintain their current Medicaid eligibility in order to qualify for the bonus. The increased FMAP rate is not available to people who were not eligible for Medicaid assistance, based on income standards, as of July 1, 2008. The FMAP increase would only apply to Medicaid and Title IV-E foster care and adoption assistance.
It is important to note that the amount provided by the FMAP increase far exceeds enrollment-driven growth in state Medicaid programs related to the economic downturn. The Bureau of Labor Statistics has reported that, since the start of the recession in December 2007, the unemployment rate has risen by 2.3 percentage points."[8] According to a study performed by the Urban Institute, state Medicaid spending increases by $1.4 billion for every one percent increase in the national unemployment rate.[9] Thus, state Medicaid costs have increased approximately $5.5 billion a year because of enrollment-driven increases in Medicaid spending. The FMAP increase should therefore be considered assistance to states to help with falling revenues more than assistance to account for enrollment growth in state Medicaid programs.



Sec. 5002. Extension and update of special rule for increase of Medicaid DSH allotments for low DSH States. Reinstates recently expired provisions from the Medicare Modernization Act that

[8]Bureau of Labor Statistics, "The Employment Situation: December 2008," Released January 9, 2009.
[9] Kaiser Commission on Medicaid and the Uninsured, "***Medicaid, SCHIP and Economic Downturn: Policy Challenges and Policy Responses***," April 2008. Available at: http://www.kff.org/medicaid/7770.cfm

would increase disproportionate share hospital payments ("low DSH"). This would allow a 16% increase in Medicaid disproportionate share hospital funding to continue through the first quarter of fiscal 2011 for several states. This would cost $350 million from FYs 2009-2013.

Sec. 5003. Payment of Medicare liability to States as a result of the Special Disability Workload Project. $3 billion is appropriated for payments to the states, to be determined by the Secretary not later than 3 months after the date of enactment, related to the Medicare program liability as a result of the Special Disability Workload project. States would waive their right to sue the federal government for a related payment if they accept payments under this provision.

Sec. 5004. Funding for the Department of Health and Human Services Office of the Inspector General. The OIG would receive $31 million from FYs 2009-2013 to oversee Medicaid funding.

Sec. 5005. GAO study and report regarding State needs during periods of national economic downturn. The Comptroller General shall develop recommendations for addressing the needs of states during economic downturns.

Amendments

Multiple amendments are expected to be offered. Republican amendments are anticipated to focus on proposals that will support the economy, eliminate wasteful spending and long-term spending that does not stimulate the economy, and make Congress responsible stewards of taxpayers' money.